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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,822	01/22/2004	Peter C. McEachen	LTTK.P0110US	6108

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EXAMINER
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RADA, ALEX P

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,822	<b>Applicant(s)</b> MCEACHEN ET AL.	
	<b>Examiner</b> Alex P. Rada	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/19/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Oath/Declaration*

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

The examiner notes that the duty to disclose statement should read, "I acknowledge that the duty to disclose information which is material to patentability of this application in accordance with Title 37, Code of Federal Regulations Section 1.56."

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11, 19-26 and 28-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Cusolito (US 5,816,886).

Regarding claim 1, Cusolito discloses a plurality of islands that can be arranged on a surface (items 40-45 of figures 1-2; where tiles 40-45 is the plurality of islands capable of being arranged on a surface); a mobile device that can be selectively moved to a location within a predetermined proximity of each of the islands (item 70 of figures 1 and 3; where the toy vehicle is a mobile

device); an identification tag associated with each island, which contains identification information to identify the associated island and distinguish it from the other islands (figures 1-2; where tiles 40-45 having identification information associated and distinguish from the other islands); a reader that reads the identification tag when the mobile device is placed in the predetermined proximity of the associated island (figure 3; where toy vehicle going over the tiles is the predetermined proximity of the associated island); an output device which generates a humanly-recognizable output (item 172 of figure 3 and col. 7, lines 64-65; where a speaker is shown to generate humanly-recognizable output); and a logic device which instructs the output device to generate a different output depending upon which island has been identified by the reader (col. 8, lines 13-30).

Regarding claim 2, Cusolito discloses wherein the output device generates a different output for each of the plurality of islands (figure 1 and col. 8, lines 13-30).

Regarding claim 3, Cusolito discloses wherein the plurality of islands can be arranged on a floor surface (wherein the tiles 40-45 are capable of being arranged on a floor surface).

Regarding claim 4, Cusolito discloses wherein at least some of the plurality of islands remain stationary during play (figure 1; where tiles are shown).

Regarding claim 5, Cusolito discloses wherein all of the plurality of islands remain stationary during play (figure 1; where tiles are shown).

Regarding claim 6, Cusolito discloses wherein the predetermined proximity is zero, and the reader reads the identification tag when the mobile device contacts the associated island (figure 1 and col. 8, lines 13-30; where the tiles being scanned by the toy vehicle).

Regarding claim 7, Cusolito discloses wherein the predetermined proximity is greater than zero, and the reader reads the identification tag when the mobile device is near the associated island (figure 1 and col. 8, lines 13-30).

Art Unit: 3714

Regarding claim 8, Cusolito discloses wherein the reader reads the identification tag when the mobile device is positioned over the associated island (figure 1 and col. 8, lines 13-30).

Regarding claim 9, Cusolito discloses wherein the mobile device comprises a body and motion-providing members attached to the body (figure 1 and 3; where a body is shown and motion-providing shown).

Regarding claim 10, Cusolito discloses wherein the movement-providing members comprise rollers rotatably attached to the body base (figure 3; where rollers rotatably attached shown).

Regarding claim 11, Cusolito discloses wherein the mobile device resembles a vehicle (figure 1; where a vehicle is shown).

Regarding claim 19, Cusolito discloses each tag comprises a bar code printed on the associated island and wherein the reader reads the bar code to obtain identification information pertaining to that particular island (figure 1; where a barcode is shown).

Regarding claim 20, Cusolito discloses wherein the output is generated within the mobile device (figure 3).

Regarding claim 21, Cusolito discloses wherein the output is audio (col. 7, lines 48-67).

Regarding claims 22-23, Cusolito discloses the output is both audio and visual (figure 1; where the tiles have both symbols and words for different types of output).

Regarding claim 24, Cusolito discloses the islands comprise pads, matts, and/or cards for arrangement on the surface (figure 1; where the tiles are capable of being arranged on the surface).

Regarding claim 25, Cusolito discloses wherein the islands having indicia on both sides, whereby they may be flipped over to provide an alternate teaching theme (col. 4, lines 8-10).

Regarding claim 26, Cusolito discloses wherein the islands comprise road signs, colors, numbers, animals, plants, vehicles, food, well-known characters, people, and/or household items

Art Unit: 3714

and wherein at least some of the islands are unique relative to the other islands so that the child can visually distinguish therebetween (figure 1 and col. 4, lines 8-10; where the tiles are capable of having a combination of symbols and words on either side and the combination of symbols and words also make the tiles distinguishable from each other).

Regarding claim 28, Cusolito discloses wherein the toy is set up for play, and the plurality of islands are arranged on a surface (figure 1).

Regarding claim 29, Cusolito discloses wherein the plurality of islands are arranged so that they are non-attached and there is a certain separation distance thereamong (figure 1; where the tiles are separated from one another).

Regarding claim 30, Cusolito discloses wherein the islands are arranged in a pattern (figure 1; where the pattern is forming a phrase or sentence).

Regarding claim 31, Cusolito discloses wherein the islands are arranged randomly (figure 1; where the tiles are capable of being arranged in random order).

Regarding claim 32, Cusolito discloses wherein the output device is associated with the mobile device (figure 1).

Regarding claim 33, Cusolito discloses arranging the plurality of islands on a surface and selectively moving the mobile device of the toy to one of the islands and placing it in a predetermined proximity thereto (figure 1).

Regarding claim 34, Cusolito discloses a plurality of stationary islands that can be arranged on a floor (items 40-45 of figures 1-2; where tiles 40-45 is the plurality of islands capable of being arranged on a floor); a mobile device resembling a vehicle and having a body and movement-providing members attached to the body, the body being selectively movable over each of the islands (figures 1, 3 and col. 8, lines 13-30; where a vehicle is shown); an identification tag associated

Art Unit: 3714

with each island, which contains identification information to identify the associated island and distinguish it from the other islands (figures 1-2; wherein each of the tiles 40-45 have a barcode and a combination of symbols and words on each side of the tiles); and a reader, which reads the identification tag when the mobile device is placed over the associated island (figure 1); wherein a different output is generated by the mobile device depending upon which island has been identified by the reader (col. 7, lines 48-67 and col. 8, lines 13-30).

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cusolito (US 5,816,886) in view of Soto et al. (US Pub. No. 2003/0171063).

Regarding claims 13-17, Cusolito is silent in regards to the mobile device comprises a ride on vehicle, an article of clothing, a shoe, a sandal, a pair of shoes, and a pair of sandals.

Regarding claim 18, Cusolito is silent in regards to wherein the reader broadcasts a radio frequency activation signal, which is received by one of the tags when the associated island is within a predetermined proximity of the mobile device, and wherein the tag is powered to transmit identification information to the reader.

Regarding claim 27, Cusolito is silent in regards to the toy has a mode selector, wherein different learning themes can be selected by selecting different modes of operation.

Regarding claim 18, Soto et al teaches broadcasts a radio frequency activation signal, which is received by one of the tags when the associated island is within a predetermined proximity of the mobile device, and wherein the tag is powered to transmit identification information to the reader (summary; where an interactive toy having a plurality of RF (Radio Frequency) identification tags capable of being read by a scanner comprising an RF tag reader). By having radio frequency signal, one of ordinary skill in the art would provide educational enrichment and a greater play experience. It would have been obvious design choice provide different types of mobile device to read or scan objects because having different mobile device is different shapes, sizes and the like would provide the same outcome as the mobile device taught by Cusolito or Soto et al to provide educational enrichment and a greater play experience.

Regarding claim 27, Soto et al teaches a mode selector, wherein different learning themes can be selected by selecting different modes of operation (item 215 of figure 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Cusolito to include a radio frequency activation signal, which is received by one of the tags when the associated island is within a predetermined proximity of the mobile device, and wherein the tag is powered to transmit identification information to the reader as taught by Soto et al to provide educational enrichment and a greater play experience.

6. Claims 27 and 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soto et al. (US Pub. No. 2003/0171063).

Regarding claim 35, Cusolito discloses a plurality of islands that can be stationarily arranged on a floor surface (figures 4A-4B; wherein the shopping item are the plurality of islands); a mobile device (figure 3; where a mobile device is shown); an identification tag associated with each island, which contains identification information to identify the associated island and distinguish it from the

Art Unit: 3714

other islands (summary and figures 7-8); and a reader, which reads the identification tag when in contact with at least one of the island (figures 7-8); wherein a different output is generated by the mobile device depending upon which island has been identified by the reader (summary and figures 7-8). Cusolito is silent in regards to a pair of shoes that can be moved to selectively step on each of the islands. It would have been obvious design choice to provide a pair of shoes as the mobile device to identify the plurality of islands because having a mobile device in a different shape or article would provide the same outcome as disclosed in Soto et al to provide educational enrichment and a greater play experience.


### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Robert E. Pezzuto  
Supervisory Patent Examiner  
Art Unit 3714

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APR